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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,088	02/17/2004	Robert J. Simmons	J-BSIM.1011	3395
56703	7590	03/17/2008		
ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202				
EXAMINER				
WINDELL, MARK R				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,088

Applicant(s)

SIMMONS, ROBERT J.

Examiner

MARK R. WENDELL

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer et al. (US 5784843) in view of Forslund, III et al. (US 5794392). Regarding claims 1 and 6, Greer teaches a utility-conduit containment space originating from under the floor. The utilities run through pre-fabricated furniture within the room space and into utilities-conduits within the ceiling of the particular story. The utilities-conduit spaces within the floor and ceiling are less than the normal full-plate height of the individual story. The utility-conduit structure supplies utilities upward. Forslund illustrates in Figures 1 and 2 the utility lines running under the floor and up a beam, similar to that of Greer. Neither reference distinctly discloses the office building being multi-storied. However, the Figures imply, and it is well known that most office buildings are multi-storied and have the utility lines running within conduits in the ceiling or under the floor between stories. It would have been obvious to one having ordinary skill in the art to modify Greer in view of Forslund to include multiple stories incorporating the utilities-conduit structure of the combined references.

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Regarding claim 3, neither reference distinctly discloses the lower story to be a ground level story; however it would be obvious to one having ordinary skill in the art to have the lower story by at ground level in order for easy access into the building. It is well known in the art that buildings without a basement or concourse level have their lowest story at ground level.

Regarding claim 4, the further limiting factor of the claim "adapted for connection to related utilities services supplies which are external to the building structure... story" is not distinctly disclosed within the cited references. However, the utilities mentioned in Greer that lie within the utility conduit space are electricity, sprinklers, and plumbing, amongst others. These utilities inherently need an external connection to the utility company provider, so therefore the utility containment space would inherently have to have supply input portions adapted for connection to external services. The examiner also notes that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense (*In re Hutchison*, 69 USPQ 138).

Regarding claims 5 and 7, Forslund discloses in column 8, lines 32-40 the floor plans being constructed from metal or molded plastic which is impervious and therefore would prevent any liquid drainage to an underlying floor.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner would like to note that the previously presented Non-Patent Literature (wikipedia article regarding mechanical floors) states that older, well-known plural-story buildings such as the Sears Tower and the old World Trade Center Towers were constructed with mechanical floors strategically placed throughout the height of the building. These floors were placed in between other, usable floors and housed plumbing, electrical and other communication equipment (which all classify as utilities). In specific, the Petronas Towers has a mechanical floor on the second floor making the floor below it a ground floor. However, the floor in which the utility floor is placed is not a patentable feature; it would be obvious to place the utility floor between any two floors. The claims also read upon drop ceilings and raised floors which house utilities, which are both well known within the building construction art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/
Supervisory Patent Examiner, Art
Unit 3635

/M. R. W./
Examiner, Art Unit 3635
March 3, 2008